

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6887

BILL NUMBER: HB 1418

NOTE PREPARED: Jan 12, 2014

BILL AMENDED:

SUBJECT: Bias Motivated Offenses.

FIRST AUTHOR: Rep. Porter

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: *Bias Motivated Crime:* The bill provides that a bias motivated crime is an offense in which the person who committed the offense intentionally: (1) selected the person who was injured; or (2) damaged or otherwise affected property; by the offense because of the actual or perceived color, creed, disability, national origin, race, religion, sexual orientation, gender, or gender identity of the injured person or of the owner or occupant of the affected property.

Enhanced Penalties: It enhances the penalties for the following offenses one level if the offense is a bias motivated crime: (1) Battery. (2) Aggravated battery. (3) Strangulation. (4) Kidnapping. (5) Criminal confinement. (6) Robbery. (7) Arson. (8) Criminal mischief. (9) Burglary. (10) Residential entry. (11) Criminal trespass. (12) Theft. (13) Criminal conversion. (14) Intimidation. (15) Harassment. (16) Stalking.

Training: The bill requires law enforcement officers to receive training in identifying, responding to, and reporting bias motivated crimes.

Bias Motivated Crime Reporting: It also amends the law that requires law enforcement agencies to collect and report information concerning bias motivated crimes.

Civil Action: The bill allows an individual who suffers a personal injury or property damage to bring a civil action to recover damages, including punitive damages, if the person who committed the act that caused the injury or property damage selected the individual because of the individual's actual or perceived color, creed, disability, national origin, race, religion, sexual orientation, gender, or gender identity.

Effective Date: July 1, 2014.

Explanation of State Expenditures: Summary: The bill could increase expenditures for incarceration of bias motivated felony offenders who would be incarcerated in a state correctional facility rather than a jail or who would have a longer term of incarceration because of an enhanced penalty. The actual number of bias motivated offenders is indeterminate and will depend on the facts of the case.

Also, the Indiana Law Enforcement Academy (ILEA) may incur one-time, minimally increased costs to develop training programs. The additional cost would depend on the requirements for bias motivated crime training established by the Law Enforcement Training Board.

There may be additional costs for law enforcement agencies to report bias crimes through the Uniform Crime Report system of the Federal Bureau of Investigation. Any impact is expected to be minimal since law enforcement agencies must collect information on bias crimes and report to the Indiana central repository for criminal history information, under current Indiana statute. [In 2011, the most recent year state-specific information is available from the Uniform Crime Report, there were 68 bias crimes committed in Indiana. Of these crimes, 54 were reported in 12 cities; 11 reported on 4 different campuses; and 3 reported in 1 metropolitan county.]

Additional Information:

The bill makes the following penalty enhancements for bias motivated offenders:

Offense	Current Penalty	Proposed Penalty
Battery	Class B misdemeanor	Class A misdemeanor
Aggravated battery	Level 3 felony	Level 2 felony
Strangulation	Level 6 felony	Level 5 felony
Kidnapping	Level 6 felony	Level 5 felony
Criminal confinement	Level 6 felony	Level 5 felony
Robbery	Level 5 felony	Level 4 felony
Arson	Level 4 felony	Level 3 felony
Criminal mischief	Class B misdemeanor	Class A misdemeanor
Burglary	Level 5 felony	Level 4 felony
Residential entry	Level 6 felony	Level 5 felony
Criminal trespass	Class A misdemeanor	Level 6 felony
Theft	Class A misdemeanor	Level 6 felony
Criminal conversion	Class A misdemeanor	Level 6 felony
Intimidation	Class A misdemeanor	Level 6 felony
Harassment	Class B misdemeanor	Class A misdemeanor
Stalking	Level 6 felony	Level 5 felony

The following table shows the ranges of the terms of incarceration in a state prison for the felony discussed in the bill.

Felony Level	Minimum	Maximum
6	6 months	30 months
5	1 year	6 years
4	2 years	12 years
3	3 years	20 years
2	10 years	30 years

A Level 6 felony is punishable by a prison term ranging between 6 and 30 months or reduction to Class A misdemeanor, a Level 5 felony between 1 and 6 years, and a Level 4 felony between 2 and 12 years. The period of incarceration will depend upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$19,386 in FY 2013. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the incremental cost per offender for medical care, food, and clothing is approximately \$3,266 annually, or \$8.95 daily. The estimated average cost of housing a juvenile in a state juvenile facility was \$77,489 in FY 2013.

Training: The Law Enforcement Training Board is to include requirements in the minimum basic training program, the mandatory in-service training program, the town marshal basic training program, the police chief executive training program, and any other training program for mandatory training in identifying, responding to, and reporting bias crimes. Depending on the requirements adopted by the Board, the Indiana Law Enforcement Academy could have one-time, minimally increased costs to develop training programs. Also, if the training program lengthens the basic course, the cost of providing training could increase.

The Indiana Law Enforcement Academy provides a 600-hour, 15-week minimum basic training program for law enforcement officers. The Academy does not charge for the program, but the law enforcement agency compensates the trainee during training. Also, the Academy provides the town marshal training program and the chief executive training program. They develop training programs for the mandatory in-service training, but law enforcement agencies may engage other organizations to provide these programs, as well.

As an example, recently enacted human trafficking training provisions required the Indiana Training Academy to restructure the minimum basic training program and use outside expertise. The human trafficking training was adapted for local-level officers from a federal government program, and the minimum basic training program was restructured to eliminate cardiopulmonary resuscitation automated external defibrillator (CPR AED) training so that the program did not exceed the 600-hour time frame. (Trainees are still required to receive the CPR AED training outside of the minimum basic training program.)

Explanation of State Revenues: Revenue for the Common School Fund could increase if offenders are convicted and receive an enhanced penalty. If additional civil actions occur with the authority provided under the bill to bring actions in certain circumstances, the state General Fund could receive additional money from court fees.

Additional Information:

Criminal Penalties: The maximum fine for a Class B misdemeanor is \$1,000, while the maximum fine for a Class A misdemeanor is \$5,000 and the fine for all felonies is \$10,000. Fine revenue is deposited in the Common School Fund.

Civil Actions: A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation for use to assist with pro bono legal services programs in Indiana. And proceeds from the automated record keeping fee (\$7) are deposited into the State User Fee Fund.

Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures: Costs to local governments could increase because the maximum term of imprisonment for a Class B misdemeanor is up to 180 days, while the maximum term for a Class A misdemeanor is up to one year. However, If an offender is sentenced to state prison rather than to a county jail, the costs to the county may be reduced. The average daily cost to incarcerate a prisoner in a county jail is roughly \$44.

Explanation of Local Revenues: If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge, depending upon the particular type of case.

Persons filing a civil case are also required to pay the following fees that are deposited in local funds.

The document storage fee (\$2) is deposited into the clerk record perpetuation fund.

The following fees are deposited into the general fund of the county in which the court is located:

- Document fees (\$1 per document) are charged for preparing transcripts or copies of record or certificate under seal.
- Service fee (\$10) collected from the filing party for each defendant beyond the first cited in the lawsuit.

State Agencies Affected: Department of Correction, ILEA, Law Enforcement Agencies.

Local Agencies Affected: Trial courts; local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association. Indiana Sheriffs' Association.

Fiscal Analyst: Karen Rossen, 317-234-2106.